

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PATRICIA MARTINEZ,

Plaintiff,

v.

No. CIV-09-281 JB/KBM

MICHAEL MARTINEZ and
LYNDA LATTA,

Defendants.

ORDER

THIS MATTER comes before me on the pro se Plaintiff's *Motion to Strike*, filed July 3, 2012 (Doc. 239), and on her *Motion to Extend Time to Respond to Doc. 238*, filed July 3, 2012 (Doc. 240). *See* 28 U.S.C. § 636(b)(1)(A).

Plaintiff seeks to strike, under Federal Rule of Civil Procedure 12(f), the Discovery Order and Report and Recommendations I filed on June 26, 2012. *See* Doc. 239 at 1. Rule 12(f) provides that a Court may “strike *from a pleading* an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Rule 12(f) (*italics added*). The term “pleading” is a legal term of art, and includes only certain documents filed by *a party* - a complaint; an answer to a complaint, cross-claim, counterclaim or third-party complaint; and a reply to an answer to a complaint. *See* Fed. R. Civ. P. 7(a). Rule 12(f) does not provide for the striking of a magistrate judge's discovery order or the judge's report and recommendations. Because it has no basis in law, the motion to strike is frivolous and will be denied.

In the alternative, Plaintiff seeks an extension for an unspecified length of time in which to file a motion seeking reconsideration of the discovery order and/or objecting to the recommendations contained in the June 26, 2012 Order. *See* Doc. 240. The Plaintiff's motion to strike consists of 28

pages of objections to that Order, which I assume Plaintiff will repeat in her motion seeking reconsideration of, and/or objecting to, the June 26, 2012 Order, thus it is difficult to conceive that Plaintiff needs even more time to exhaust her complaints. But I will grant a one-week extension of time, to July 17, 2012, to file such a motion. I remind P. Martinez that any motion she files must be limited to “twenty-seven double-spaced pages.” D.N.M. LR-Civ. 7.5; D.N.M. LR-Civ. 72.1 (providing that “objections to a non-dispositive pre-trial matter decided by a pre-trial Magistrate Judge will follow the procedures and requirements set forth” in local rules 7.3-7.5).

IT IS ORDERED that Plaintiff’s *Motion to Strike* [Doc. 239] is DENIED and that her *Motion To Extend Time* [Doc. 240] is GRANTED as set forth above.


UNITED STATES CHIEF MAGISTRATE JUDGE